

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
WONDERWORK, INC., : Chapter 11
Debtor. : Case No. 16-13607 (DSJ)

VINCENT A. SAMA, as Litigation Trustee of the :
WONDERWORK LITIGATION TRUST, :
Plaintiff, :
-against- : Adv. Pro. No. 18-01873 (DSJ)
BRIAN MULLANEY, HANA FUCHS, :
THEODORE DYSART, RAVI KANT, JOHN J. :
CONEYS, STEVEN LEVITT, CLARK KOKICK, :
STEVEN RAPPAPORT, RICHARD PRICE, and :
MARK ATKINSON, :
Defendants. :
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STIPULATION AND ORDER STAYING ADVERSARY PROCEEDING

WHEREAS, on or about March 13, 2019, certain of the director defendants filed a motion for the District Court to withdraw the reference as to this adversary proceeding;

WHEREAS, on or about April 2, 2019, the defendants filed six separate motions to dismiss the complaint;

WHEREAS, on January 17, 2020, this Court issued a Memorandum Decision (Doc. No. 70), confirmed in an order of February 3, 2020 (Doc. No. 71), (i) granting in part and denying in part Defendants' motions to dismiss the complaint and (ii) granting Plaintiff leave to amend the complaint;

WHEREAS, on January 23, 2020, the District Court denied the motion to withdraw the reference without prejudice to renewal when the claims are ready for trial;

WHEREAS, in late March, 2020, the defendants filed six separate motions to dismiss the first amended complaint;

WHEREAS, on December 18, 2020, this Court issued another Memorandum Decision (Doc. No. 104), confirmed in an order dated January 19, 2021, (Doc. No. 105) (i) granting in part and denying in part Defendants' motions to dismiss the amended complaint and (ii) directing Plaintiff to file and serve a second amended complaint pleading certain claims against certain defendants;

WHEREAS, on January 21, 2021, Plaintiff filed his second amended complaint;

WHEREAS, as of February 26, 2021, each defendant has filed an answer to the second amended complaint;

WHEREAS, the Court had stayed discovery while the Rule 12 motions were being addressed; and

WHEREAS, before incurring the expense of discovery, the parties wish to explore the possibility of an amicable resolution of this adversary proceeding and thus want to have a voluntary mediation session, as well as any additional voluntary mediation sessions as agreed to by the parties (the "Mediation").

THEREFORE IT IS HEREBY STIPULATED AND AGREED by and among the undersigned attorneys for the parties in the above-referenced adversary proceeding, subject to the Court's approval, that:

- (i) All aspects of this adversary proceeding are stayed for a period of either (a) sixty days from entry of this Stipulation and Order or (b) ten days from conclusion of the Mediation, whichever concludes earlier (the "Stay Period");
- (ii) The Mediation shall be completed during the Stay Period;

(iii) The parties shall hold the conference required by Federal Rule of Civil Procedure 26(f) no later than fourteen days after conclusion of the Mediation or the Stay Period, whichever is earlier. Following the conference, any party may serve discovery.

IT IS FURTHER STIPULATED AND AGREED that this stipulation may be executed in counterparts and that electronic and/or facsimile signatures shall be deemed to be originals.

Dated: New York, New York
March 3, 2021

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SO ORDERED:

Dated: New York, New York
March 8, 2021

Smith, Gambrell & Russell, LLP

/s/ *John G. McCarthy*
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s/ David S. Jones
Honorable David S. Jones
United States Bankruptcy Judge